

**STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA**

**APPLICATION REQUIREMENTS FOR LICENSURE UNDER THE LOUISIANA
RESIDENTIAL MORTGAGE LENDING ACT**

The Louisiana Residential Mortgage Lending Act (RMLA) requires that residential loan brokers, lenders, and originators who engage in residential mortgage activities in Louisiana must be licensed with this Office.

"Mortgage Broker" means any person who, directly or indirectly, for compensation or the expectation of compensation, negotiates, places, or finds, or offers to negotiate, place or find a residential mortgage loan for another person. "Mortgage Broker" also shall include:

- (a) An approved Federal Housing Administration loan correspondent.
- (b) A residential mortgage lender who closes a residential mortgage loan in his own name but for whom the funding for the loan is provided by a third party lender in a process known as table funding.

"Mortgage Lender" means any person who, directly or indirectly, originates or makes, or offers to originate or make, a residential mortgage loan for another person.

Should either of these define the business activity in which you intend to operate in Louisiana, you should file the enclosed application as soon as possible. You are reminded that unless properly licensed or registered you cannot engage in the business of brokering or lending mortgage loans.

Frequently asked questions are available on the Office of Financial Institutions' web site at www.ofi.state.la.us under the RMLA General Information heading.

The enclosed application packet includes the following:

- Uniform Application for Licensure/Registration
- Application Check List
- Louisiana Residential Mortgage Lending Act

The application process takes approximately four to six weeks to complete. If you have not received either your license or a denial letter after six weeks you may contact Jane Miller at (225) 925-3828 or jmiller@ofi.state.la.us .

Applications may be hand delivered or mailed to:

**Office of Financial Institutions
8660 United Plaza Boulevard – 2nd Floor
Baton Rouge, LA 70809**

**Office of Financial Institutions
P. O. Box 94095
Baton Rouge, LA 70804-9095**

(7/26/2006)

INSTRUCTIONS
UNIFORM APPLICATION FOR LICENSURE

This application will not be considered complete until this Office receives all fees and required information. Failure to provide all documentation will result in increased processing time and possible denial or rejection of the application. All blanks must be completed. If N/A, so state.

- No. 1 Full legal name of entity. The only instance, in which the "applicant" may be a natural person, is if the applicant is a sole proprietorship. Otherwise, the "applicant" is a separate legal entity that will be conducting business. The name inserted on this line must be **identical** to the name filed with the Secretary of State from the state in which you are applying.
- No. 2 If applicant operates under a trade or assumed name, the name inserted on this line must be **identical** to the name that appears on the certificate of registration filed with the proper state authority in which the applicant is applying (e.g. Secretary of State).
- No. 3 Street address of the office location that will appear on the face of the license.
- No. 4 The mailing address of the applicant, if different from No. 3. If same, so state.
- No. 5 Main office phone number, fax number, web site and/or e-mail address.
- No. 6 Check the type of organization. Attach copies of Certificate of Authority, Articles of Incorporation or Organization, Partnership Agreement and Bylaws, whichever is applicable.
- No. 7 Insert the state in which the applicant was originally registered and date that the applicant was incorporated, organized or formed.
- No. 8 Out-of-state applicants must submit documentation evidencing that your company/entity is authorized to do business in the state in which you are applying. (Registration Certificate from the proper authority such as the Secretary of State)
- No. 9 Self-explanatory
- No. 10 Self-explanatory
- No. 11 Complete name, address, and phone number of the Registered Agent for Service of Process. (Sole Proprietor's put "N/A.") Registered Agent must be a person located in the state in which you are applying.
- No. 12 Self-explanatory
- No. 13 Self-explanatory
- No. 14 Self-explanatory
- No. 15 List the states in which the applicant is conducting or has conducted similar type of business.
- No. 16 List the name, title, complete address, and percentage of ownership of each director, manager, member, partner, sole proprietor, all 10% or greater equity owners, and officers (CEO, CFO, COO, President, EVP, Secretary, Treasurer, or individuals of similar status or function). Additional sheets may be copied and attached, if necessary. For purposes of this application, "equity owners" includes stockholders, members, partners, or limited partners that own equity in the business seeking licensure. If applicant is a subsidiary, list requested information for parent company and 10% or greater equity owner of the parent. Two (2) original Form FD 258 fingerprint cards, or equivalent, which can be obtained from your local law enforcement office. In addition to your fingerprints, the cards must have your Social Security Number, date of birth, printed name, and signature.
- No. 17 Self-explanatory
- No. 18 If the application is a subsidiary, provide information concerning the parent company and an organizational chart.

ALL ATTACHMENTS MUST BE SUBMITTED

LOUISIANA OFFICE OF FINANCIAL INSTITUTIONS
8660 United Plaza Boulevard, 2nd Fl.
Baton Rouge, LA 70809
(225) 925-4660

FINGERPRINT CARD INFORMATION

Act 236 of the 2006 Regular Session of the Louisiana Legislature amended LSA-R.S. 6:121.2 effective June 2, 2006. This section authorizes the Commissioner of Financial Institutions to request and obtain state and national criminal history record information on any person applying for any license with the Office of Financial Institutions, as well as require any applicant for any license to submit two full sets of fingerprints in a form or manner prescribed by the Commissioner as a condition of the Commissioner's consideration of their application.

WHO MUST SUBMIT FINGERPRINT CARDS

- 1) **Owner(s):** Sole Proprietors; partners and general partners, if partnership; trustees; members and general members, if an LLC; and 10% or greater equity owners.
- 2) **Director(s):** All directors.
- 3) **Officer(s):** Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, Executive Vice President(s), Corporate Secretary, Treasurer, or other individuals of similar status or function.
- 4) **Mortgage Loan Originators:** All originators, unless exempt under LSA-R.S. 6:1087.

<p>NOTE: <i>Louisiana residents or persons listed in Question 16 of the Uniform Application who have had a license since June 2001 are not required to submit fingerprint cards at this time.</i></p>

WHAT MUST BE SUBMITTED

- 1) Two original Form FD 258 fingerprint cards, or equivalent, which can be obtained from your local law enforcement office. All information on these cards must be completed. Louisiana State Police will not process incomplete cards. Incomplete cards will be returned.
- 2) Louisiana State Police Bureau of Criminal Identification and Information Form. All information on this form must be completed. Louisiana State Police will not process incomplete forms. Incomplete forms will be returned. (Form attached).
- 3) \$50 nonrefundable criminal background processing fee made payable to the Office of Financial Institutions. (This fee is in addition to the application fee.)
- 4) Completed Authority to Obtain Information from Outside Sources form, signed and notarized (included in application package).

<p>IMPORTANT NOTICE</p>

<p>Applicants submitting fingerprint cards that are smudged or unreadable will be required to resubmit new cards at no additional cost. This will add to the processing time of the application.</p>

REVISED 08/08/06	UNIFORM APPLICATION FOR LICENSURE			TYPE OF LICENSE APPLIED FOR:
1.	Full legal name of applicant <i>(attach secretary of state certificate from the state in which you are applying)</i> :			
2.	Trade name, dba, or assumed name of applicant, if applicable: <i>(attach registration documentation/certificate)</i>			Fed. Tax I.D.#:
3.	Principal office street address:			
	City:	State:	Zip Code:	
4.	Mailing address (street or post office box):			
	City:	State:	Zip Code:	
5.	Business phone number:		Business fax number:	
	E-mail address:		Web site: www.	
6.	Type Of Organization: <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company (LLC)		<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Other (Explain)
	State/Commonwealth of Incorporation:		Date of Incorporation/Organization:	
8.	If a foreign corporation or other type of legal entity, state the date that the entity filed with the proper state authority in which the applicant is applying. (e.g. secretary of state), if so required:			
9.	Physical address of location at which the official books and records of the applicant are kept:			
	City:	State:	Zip Code:	Phone No:
10.	Does applicant engage in mortgage activity through electronic or automated mediums, such as the internet? () If yes, attach description of activity and web site address () No			
11.	Registered agent for service of legal process: <i>(must be located in state/commonwealth in which you are applying)</i>			
	Name:			
	Mailing Address:			
	City:	State:	Zip:	Phone Number:
12.	Person authorized to answer questions pertaining to this application:			
	Name:			
	Address:			
	City:	State:	Zip Code:	Phone No:
	E-Mail Address:		Fax No:	

13.	Person authorized to answer regulatory compliance issues:				
	Name:				
	Address:				
	City:	State:	Zip Code:	Phone No:	
	E-Mail Address:		Fax No:		
14.	Person authorized to answer consumer complaints:				
	Name:				
	Address:				
	City:	State:	Zip Code:	Phone No:	
	E-Mail Address:		Fax No:		
15.	List all states in which applicant is conducting or has conducted business related to this application: (attach list if necessary)				
	State or states in which business is/was conducted	Type of business conducted	Names under which applicant <u>is</u> or <u>has</u> operated	Original license date	Active or Inactive
16.	List all principal officers and title held, directors, partners, and members. (attach addendum if necessary)				
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
List all persons that have a 10% or greater equity interest not listed above.					
Name		Principal Office Address		% Ownership	
Name		Principal Office Address		% Ownership	
Name		Principal Office Address		% Ownership	

17.	Read the following questions carefully. If the answer is yes to any of the questions, attach a full written explanation. Include names, dates, court name and address, case number, judgement amounts.		
A.	Are there any civil or criminal proceedings pending against the applicant <u>or</u> civil or criminal convictions, plea of nolo contendere or plea to lesser charge entered against the applicant that involve theft, fraud, dishonest dealings or moral turpitude?		() Yes, attach explanation () No
B.	Has the applicant ever been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?		() Yes, attach explanation () No
C.	Has any other state or federal government agency denied the applicant a license?		() Yes, attach explanation () No
D.	Is/has the applicant been the subject of any administrative action or enforcement proceeding by any state or federal government agency involving fines, penalties, or the revocation or suspension of any business license or permit?		() Yes, attach explanation () No
18.	Is applicant a subsidiary?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Parent company name:		
	Mailing address:		
	City:	State:	Zip Code:
	If applicant's parent company is a corporation, state where and when incorporated.		
	State Incorporated:	Date Incorporated:	
IN ADDITION TO ALL OF THE ABOVE, APPLICANT MUST SUBMIT THE FOLLOWING ATTACHMENTS:			
A.	Certificate of Resolution form stating who can sign official documents on behalf of the applicant.(See Attachment A)		
B.	Biographical / Authority Sheet completed and notarized for everyone listed in #16.(See Attachment B)		
C.	A current 10-year employment/experience form for everyone listed in #16 and sole proprietors.(See Attachment C)		
D.	Residence addresses for the last 10 years for everyone listed in #16.(See Attachment D)		
E.	Provide copies of the following, whichever are applicable: <ol style="list-style-type: none"> 1. Certificate of Good Standing from the Secretary of State or other state authority in which the applicant was originally incorporated or organized. 2. If applicant is a corporation, provide a copy of Articles of Incorporation, including amendments. 3. If applicant is a Limited Liability Company (LLC) provide a copy of the Articles of Organization and operating agreement. 4. If applicant is a general partnership or a Limited Liability Partnership (LLP) provide a copy of the Partnership Agreement. 		

APPLICATION AFFIDAVIT

Signed this _____ day of _____ 20_____.

Name of Company

By:

Signature of Authorized Person

Print Name and Title

STATE OR COMMONWEALTH OF _____
COUNTY /PARISH OF _____

_____ personally came and appeared before me, the undersigned
(authorized person above)
notary, and declared under oath that she/he is the _____ of
(Title)
_____, that she/he is authorized to sign and submit the attached
(Name of Company)
application and that all statements and representations made therein are true and correct to the best of
his/her knowledge, information and belief.

Signature of the authorized person

Sworn to and subscribed before me on this the _____ day of _____ 20_____.

Notary Public

Print Name of Notary Public

(Seal)

My Commission Expires: _____

CERTIFICATE OF RESOLUTION

This form must be completed by all applicants, except sole proprietors, and must include the applicant's full name, including trade name(s), D/B/A name(s), or assumed name(s), if applicable.

This is to certify that at a meeting of the ☐ Board of Directors/or ☐ Members/ or ☐ Partners of

Full legal name of applicant/company
organized under the laws of the State/Commonwealth of _____ held at

_____, _____, _____, _____
Street address City State Zip Code

on the _____ day of _____ 20____, the following resolution was
duly and legally presented and adopted, to wit:

It being the desire and purpose of _____
Full legal name of applicant/company
to be licensed or registered, BE IT RESOLVED, that _____
Name of authorized representative
who is the _____ of this ☐ limited liability company, ☐ corporation,
Title of authorized representative
☐ limited partnership, or ☐ general partnership is, in his/her official capacity, hereby authorized
and directed to prepare, execute, verify, and present to the proper state authorities, for filing, a written
application for licensure or registration. Further, he/she is hereby authorized and empowered to make, sign
and execute all documents pertaining to the application and to perform every act whatsoever as required to
file the application on behalf of _____.
Full legal name of applicant/company

AUTHORIZED SIGNATURE

(If corporation, this form must be signed by Secretary)

Print Name

TITLE : _____

DATE: _____

AUTHORITY TO OBTAIN INFORMATION FROM OUTSIDE SOURCES**THIS FORM MUST BE SUBMITTED FOR EACH PERSON LISTED IN QUESTION # 16**

Name:

Social Security #:

Home Address, City, State, Zip Code:

Date of Birth:

Home Telephone No:

Read the following questions carefully. If the answer is "yes" to any of the questions, attach a full written explanation. Include names, dates, court name and address, case number, judgment amounts.

Have any civil judgments been entered against you during the past 10 years?

() Yes, attach explanation () No

Are there any civil proceedings pending against you or civil judgments entered against you which involve fraud or dishonesty?

() Yes, attach explanation () No

Have you ever been convicted of, plead guilty to, or entered a plea of Nolo Contendere (no contest) to a felony, including any which may have been expunged, set aside or for which you received a first offense pardon?

() Yes, attach explanation () No

Have you ever been convicted of, plead guilty to, or entered a plea of Nolo Contendere (no contest) to any misdemeanor involving theft, fraud, or dishonesty, including any which may have been expunged, set aside or which you received a first offense pardon?

() Yes, attach explanation () No

Have you been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?

() Yes, attach explanation () No

Have you been refused a license or permit to do business under the provisions of a similar law or subject to any enforcement proceedings by any State or Federal government agency involving the revocation or suspension of any business license or permit, fines or penalties?

() Yes, attach explanation () No

Have you been discharged for cause or been requested to resign from any employment position?

() Yes, attach explanation () No

I hereby authorize the licensing authority, to make inquiries from any financial institution, credit bureau or law enforcement agency for the purpose of determining his/her financial responsibility, character and fitness in connection with an application for a license or registration.

I hereby certify that the information on this form is, to the best of my knowledge, complete and accurate.

Signature

SUBSCRIBED BEFORE ME ON THIS _____ day of _____, 20 _____.

AT: _____,
(CITY)

(STATE or COMMONWEALTH)

PRINT NAME OF NOTARY PUBLIC:**SIGNATURE OF NOTARY PUBLIC:**

Louisiana State Police
Bureau of Criminal Identification and Information
Baton Rouge, Louisiana

FORMS MUST BE FILLED OUT IN INK AND BE REVIEWED BY SUBMITTING AGENCY/INDIVIDUAL FOR ACCURACY

FINGERPRINTS ARE NECESSARY FOR A POSITIVE IDENTIFICATION

PLEASE PRINT

Louisiana Office of Financial Institutions

FACILITY OR AGENCY

Robert F. Brian

FACILITY OR AGENCY AUTHORIZED REPRESENTATIVE

P.O. Box 94095

MAILING ADDRESS

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Baton Rouge,

CITY

Louisiana

STATE

70804

ZIP CODE

(225) 925-4660

FACILITY OR AGENCY PHONE NUMBER

Request For: (pick one only)

- ☐ ADULT DAY CARE
- ☐ ADULT RESIDENTIAL
- ☐ ALCOHOL AND BEVERAGE COMMISSION
- ☐ ALCOHOL BEVERAGE OUTLET
- ☐ AMBULANCE SERVICE
- ☐ CASA
- ☐ CONCEALED HANDGUNS
- ☐ CRIMINAL JUSTICE EMPLOYEE
- ☐ DAYCARE
- ☐ DENTISTRY BOARD
- ☐ DEPARTMENT OF LABOR
- ☐ DEPARTMENT OF PUBLIC SAFETY
- ☐ EMPLOYERS
- ☐ FIREFIGHTERS
- ☐ GAMING
- ☐ HOME HEALTH AGENCY
- ☐ HOSPICE
- ☐ IMMIGRATION
- ☐ INTERMEDIATE CARE FACILITY FOR MENTALLY RETARDED
- ☐ JUVENILE DETENTION CENTER
- ☐ DEPARTMENT OF INSURANCE
- ☐ MANUFACTURED HOUSING

- ☐ MEDICAL EXAMINERS
- ☐ NURSING HOME
- ☐ OCS FOSTER/ADOPTIVE
- ☐ OCS PERSONNEL
- ☒ **OFFICE OF FINANCIAL INSTITUTIONS**
- ☐ OFFICE OF PUBLIC HEALTH
- ☐ PHARMACY BOARD
- ☐ POSTSECONDARY EDUCATION
- ☐ PRACTICAL NURSING
- ☐ PRIVATE ADOPTION
- ☐ PRIVATE INVESTIGATORS
- ☐ PRIVATE SECURITY
- ☐ PUBLIC HOUSING
- ☐ PUBLIC TAG AGENT
- ☐ REGISTERED NURSING
- ☐ RELIGIOUS ACTIVISTS
- ☐ RIVERBOAT PILOTS
- ☐ SCHOOL
- ☐ SENATE AND GOVERNMENTAL AFFAIRS
- ☐ TAXI DRIVERS
- ☐ USED MOTOR VEHICLE COMMISSION
- ☐ VOLUNTEERS WORKING WITH CHILDREN

APPLICANTS FULL NAME: _____

****PRINT – USE INK****

LAST

FIRST

MIDDLE

{INCLUDE MAIDEN NAME & PREVIOUS MARRIED NAMES IF APPLICABLE}

APPLICANTS SIGNATURE: _____

APPLICANTS SOCIAL SECURITY # ____ - ____ - ____ DATE OF BIRTH: ____ / ____ / ____

DRIVERS LICENSE # _____ & STATE _____ RACE _____ SEX _____

TYPE OF OFI LICENSE APPLIED FOR _____

AUTHORIZATION TO DISCLOSE CRIMINAL HISTORY RECORDS INFORMATION

By my signature above, I hereby authorize the Louisiana State Police to release all pertinent criminal record information maintained in their files, other states files, or the FBI files (if applicable) which may confirm or deny my eligibility with the facility or agency named above.

Attachment [C]**EMPLOYMENT/EXPERIENCE HISTORY FOR THE LAST 10 YRS**

Each sole proprietor, officer, director, partner, member, manager and 10% or greater equity owner of applicant must fill out this form. You may submit your own resume' as long as it includes the information listed below. Explain any gaps in work history. *(Attach additional sheets, if necessary)*

NAME: _____

Employer Name and Address	Position/Brief Description of Duties	Start Date	End Date	Reason for Leaving

Attachment [D]**LIST RESIDENTIAL ADDRESSES FOR THE LAST 10 YRS**

Each sole proprietor, officer, director, partner, member, manager and each 10% or greater equity owner of applicant must fill out this form. *(Attach additional sheets, if necessary)*

NAME: _____

Residential Address	Start Date	End Date

**ADDITIONAL REQUIREMENTS FOR LICENSURE UNDER THE
LOUISIANA RESIDENTIAL MORTGAGE LENDING ACT**

**AGENT FOR SERVICE OF PROCESS AND ACKNOWLEDGEMENT
(For Corporations, LLCs, and all Out-of-State Entities)**

Louisiana Agent for Service of Legal Process:

- (a) Name of Agent: _____
- (b) Business Address: _____
- City: _____ State: _____ Zip Code: _____
- (c) Business telephone number: (____) _____

I hereby acknowledge and accept the appointment of registered agent for and on behalf of

Full legal name of Licensee

Signed by: _____
Registered Agent or Authorized Representative

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public

**Should the licensee/registrant change its Agent for Service of Process, a new
acknowledgement form reflecting such change is required to be submitted to this Office.**

REQUIREMENTS FOR LICENSURE RESIDENTIAL MORTGAGE LENDING ACT

THIS INFORMATION MUST BE SUBMITTED IN ADDITION TO THE UNIFORM APPLICATION REQUIREMENTS

- A check or money order payable to the Office of Financial Institutions (cash cannot be substituted) in the amount of \$400 for the Residential Mortgage non refundable application fee.
- Completed, signed, and notarized uniform application. All checks in payment of application fees for both the originator and the company must be from the company.
- Mortgage Loan Origination Agreement (see attached example).
- Section 1088(C)(1) requires residential mortgage lenders to comply with the \$50,000 financial responsibility requirements by providing one of the following:
 - (a) An audited financial statement prepared by a certified public accountant that meets the independent requirements of the profession. Applicant shall maintain a net worth of fifty thousand dollars or more during the licensing year. The date of the audit must be no more than 18 months prior to the application or renewal date. The licensee must submit the annual audit to the commissioner within 60 days of receipt of such audit. The audited financial statement must include the following: balance sheet, income statement, cashflow, and changes of equity.
 - (b) A deposit, irrevocably pledged to the commissioner, of fifty thousand dollars in a federally insured depository institution located in Louisiana, designated by the applicant. The applicant shall receive all interest earned on the deposit.
 - (c) Securities of a type approved by the commissioner, including but not limited to bonds of the state or any of its political subdivisions or bonds of the United States government, having a value of not less than fifty thousand dollars irrevocably pledged to the commissioner. The applicant shall receive all interest or dividends earned on the securities.
 - (d) A surety bond authorized by a surety insurer licensed to do business in this state in the amount of fifty thousand dollars. The surety bond shall name the Office of Financial Institutions and shall be filed with the application or renewal.
- Completed Residential Mortgage Lending information form (see attached).
- If your company is a wholesale lender, please submit the following:
 - A list of the names and addresses of all brokers from whom you accept loan applications for Louisiana consumers.
 - A letter from your financial institution stating the amount of your line of credit or evidence of your financial ability to fund loans.
 - A statement signed by the President/CEO of your company that you do not originate any loans for Louisiana consumers.
- Loan Originator application, if applicable (not required for lenders who engage solely in wholesale lending).
 - A check or money order made payable to the Office of Financial Institutions in the amount of \$100 per originator for the Loan Originator application fee.
 - \$50 background check fee and 2 fingerprint cards for each new originator, sole proprietor, partner, member, executive officer, director, and 10% or greater equity owner. (See Fingerprint Instructions.)
 - Proof of completion of 10 hours of continuing education for each originator transferring their application
 - Evidence that you have passed the required originator test for licensure for every new originator.

If you have any questions concerning this application, please contact Jane Miller at (225) 925-3828.

Applications may be hand delivered or mailed to:

**Office of Financial Institutions
8660 United Plaza Boulevard – 2nd Floor
Baton Rouge, LA 70809**

or

**Office of Financial Institutions
P. O. Box 94095
Baton Rouge, LA 70804-9095**

RESIDENTIAL MORTGAGE INFORMATION

The following information **must** be completed by all applicants for licensure. All questions must be answered. If the question does not apply to your company, please indicate by answering "N/A."

1. In which of the following activities do you intend to engage?

Non-real estate Lending:

Consumer _____
Insurance Premium Fin. _____
Small (Payday) _____

Mortgage Lending:

1st Mortgage _____
2nd Mortgage _____
Home Equity _____

Brokering:

1st Mortgage _____
2nd Mortgage _____
Other Consumer _____

2. List name, address and license number of each originator (natural person), through whom the company engages in residential mortgage lending activity. Attach an originator application and fees for each. Attach a signed copy of any employment agreement entered into with each originator. If none, so state. Attach additional page(s) if necessary.

Name

Address

License No.

Employment Agreement

(If yes, include a signed copy)

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

3. List all locations where applicant engages in residential mortgage lending activities for Louisiana, other than the principal place of business provided in question 3 of this application. Include copy of lease and telephone bill for each location and a signed copy of each branch agreement. If none, so state. Attach additional page(s) if necessary.

Physical Address:

Telephone no.

Branch Agreement:

(If yes, include signed copy)

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

4. **LENDERS:** List the name, address, and license number of each mortgage BROKER from whom the LENDER accepts residential mortgage loan applications. Attach additional page(s), if necessary.

Name

Address

License No.

5. **BROKERS:** List the name, address and license number of each mortgage LENDER to whom the BROKER submits residential mortgage loan applications. Attach additional page(s), if necessary.

SAMPLE

**NOTE: Applicants brokering loans must submit a Mortgage Loan Origination Agreement (MLOA) with their company's information for review with this application.
MLOAs must be in compliance with LSA-R.S. 6:1098**

MORTGAGE LOAN ORIGATION AGREEMENT

AMERICAN MORTGAGE, INC.
2200 Mortgage Blvd., Suite 200
Baton Rouge, LA 70737
(225) 555-1212

American Mortgage, Inc. (AMI) is a Louisiana corporation incorporated June 24, 1995, and began operations as a mortgage loan broker on _____. AMI is a wholly owned subsidiary of JVF Corp., Inc. and an affiliate of JVF Settlement Enterprises and JVF Collections, Inc. JVF Settlement Enterprises will provide settlement services. AMI is doing business under no other names.

This agreement is made and entered into on _____ *DATE* by and between **AMI** with its principal place of business located at **2200 Mortgage Blvd., Suite 200, Baton Rouge, LA 99999** hereinafter referred to as "**Broker**," and the below signed applicant(s) hereinafter referred to as "**Borrower**."

SERVICES TO BE PERFORMED:

Broker agrees to perform all mortgage loan broker services normally and customarily performed in connection with the origination of mortgage loans but not limited to the services described below. **Broker** and **Borrower** both agree that under this Agreement, **Broker** is providing mortgage loan brokering services on behalf of **Borrower** as **Borrower's** agent.

- (a) taking information from the borrower and filling out the application;
- (b) analyzing the prospective borrower's income and debt and pre-qualifying the prospective borrower to determine the maximum mortgage that the prospective borrower can afford;
- (c) educating the prospective borrower in the home buying and financing process, advising the borrower about the different types of mortgage loan products, and demonstrating how closing costs and monthly payments would vary under each product;
- (d) collecting financial information (tax returns, bank statements) and other related documents that are part of the application process;
- (e) initiating/ordering VOEs and VODs;
- (f) initiating/ordering requests for mortgage and other mortgage loan verifications;
- (g) initiating/ordering appraisals;
- (h) initiating/ordering inspections or engineering reports;
- (i) providing disclosures (truth in lending, good faith estimate, others) to the borrower;
- (j) assisting the borrower in understanding and clearing credit problems;
- (k) maintaining regular contact with the borrower, realtors and mortgage lender, between application and closing to apprise them of the status of the application and to gather any additional information as needed;
- (l) ordering legal documents;
- (m) determining whether the property was located in a flood zone or ordering such service; and
- (n) participating in the mortgage loan closing.

OTHER SERVICES, DUTIES OR OBLIGATIONS

COMPENSATION

Compensation for **Broker's** services rendered on behalf of **Borrower** shall be equal to _____% of the principal loan amount with said fees to be paid directly to **Broker** from the loan proceeds at the time of settlement. This fee is not imposed by the mortgage lender; however, it may be disclosed by the mortgage lender in connection with other services. In addition to the broker fee paid to **Broker** by **Borrower** at settlement, **Broker** may receive additional amounts from the mortgage lender such as servicing release fees or yield spread premiums based on the difference in the Lender's wholesale rates and the retail note rate paid by the **Borrower** on the mortgage loan.

If the mortgage loan is denied or does not close by the expiration of this contract, said **Borrower** is only liable for actual expenses incurred for the appraisal, credit check and title search and actual costs up to \$25 for Desktop Underwriter or Loan Prospector as provided for in LSA-R.S. 6:1096(G)(1).

DUTIES OF APPLICANT

Borrower agrees to provide **Broker** true, complete and accurate information upon request and to pay all fees required pursuant to this Agreement. **Borrower** must obtain, upon request, any information or documentation that **Broker** cannot obtain due to policies of various employers, lending institutions, government agencies, etc. **Borrower** must pay for any and all costs of obtaining payoff balances, verifications, recordings and cancellations. **Borrower** further agrees to pay all third party fees incurred in connection with the mortgage loan. Such fees shall be disclosed on the Borrower's Good Faith Estimate of Settlement Charges (GFE) to the extent known by **Broker** at the time of application. **Broker** will advise **Borrower** of all material changes in the original application, the reason for the changes, and the effect of the changes in the proposed loan payment, term or rate. A revised GFE will be provided to **Borrower** if there are material changes in the information disclosed on the original GFE.

TERM

The original term of this agreement shall be from date signed until the date of loan closing, but no later than **30** days from the date of this agreement.

COMPLAINTS

If you have a complaint regarding this loan transaction you can call the Office of Financial Institutions at (225) 925-4660 or download a complaint form from OFI's web site at www.ofi.state.la.us.

AFFIRMATION BY BORROWER

This agreement contains the entire agreement between **Broker** and **Borrower** and supersedes all prior agreements or understandings relating to the subject matter thereof. There are no written or oral agreements between the parties other than set forth in this agreement.

By signing below, the **Borrower** acknowledges receipt of this Mortgage Loan Brokerage Agreement and Disclosure Statement.

Originator's Signature Date

Borrower's Signature Date

Type Originator Name License #

Borrower's Signature Date

Originator's Street Address

City State Zip

Telephone Number

☐ Original for broker ☐ Copy for borrower

LOUISIANA MORTGAGE LENDER/MORTGAGE BROKER SURETY BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we,

Principal-Licensee's Name (include Trade Name, if applicable) and Physical Address

as Principal, and _____

Surety's Name, Physical Address and Telephone Number

a corporation duly organized under the laws of the State of _____, which is authorized to engage in the business of insurance in the State of Louisiana, as surety, are held and firmly bound unto the State of Louisiana Office of Financial Institutions in the full sum of FIFTY THOUSAND DOLLARS (\$50,000) for payment of which we do hereby bind ourselves, our heirs, successors, administrators and assigns according to all the terms and conditions provided by LSA-R.S. 6:1081 et seq, or hereinafter stated.

The terms of this bond shall be continuous. The surety on said bond may terminate the bond upon giving a sixty-day written notice to the Office of Financial Institutions and the principal; however, the liability of the surety for the acts of the principal shall continue during the sixty-day period. The notice shall not release the surety from liability which accrues before the termination becomes final, but which is discovered after that date.

The conditions of this bond are as follows:

- (1) The bond shall be in favor of the State of Louisiana Office of Financial Institutions for the use, benefit, and indemnity of any persons who suffer any damage or loss as a result of the residential mortgage lender's breach of contract or of any obligation arising therefrom, or by any violation of law. The surety bond must be mailed to the Office of Financial Institutions, P.O. Box 94095, Baton Rouge, LA 70804-9095.
- (2) The state or any person claiming against the bond may maintain an action for damages or other relief against the principal or the surety, or both. The liability of the surety for all breaches of the conditions of the bond provided herein shall in no event exceed the amount of the bond.

Signed at _____, the _____ day of _____, _____, in the presence of the subscribing competent witnesses.

PRINCIPAL (Name of Applicant)

SURETY (BONDING COMPANY)

By: _____
(SIGNATURE of Authorized Person)

By: _____
Attorney-in-Fact

(Print Name)

[Affix Seal]

(Witness)

APPLICATION CHECKLIST
LOUISIANA MORTGAGE LENDER/MORTGAGE BROKER APPLICATION

THE FOLLOWING ITEMS MUST BE INCLUDED WITH THE APPLICATION.
INCOMPLETE APPLICATIONS WILL RESULT IN INCREASED PROCESSING TIME AND POSSIBLE
DENIAL OF THE APPLICATION.

- () A. A company check or money order payable to the Commissioner of Financial Institutions in the amount of **\$400** (cash cannot be accepted).
- () B. Completed, signed, and notarized Uniform Application. All blanks must be filled in. (If N/A so state.)
- () C. Complete an originator application for **each** originator. Include a \$100 application fee for new originators or \$50 transfer fee for currently licensed originators, a current resume, picture i.d, proof of completion of professional education, and signed copy of W-4 Employee's Withholding Allowance Certificate.
- () D. Two (2) Original Fingerprint Cards, or equivalent, (including fingerprints, printed name, signature, social security number, and date of birth for each director, manager, member, partner, sole proprietor, all 10% or greater equity owners, and officers (CEO, CFO, COO, President, EVP, Secretary, Treasurer, or individuals of similar status or function)) and \$50 background processing fee. (See Fingerprint Card Information Instructions.) For purposes of this application, "equity owners" includes stockholders, members, partners, or limited partners that own equity in the business seeking licensure.
- () E. Louisiana Police Bureau Criminal Identification and Information Form must be completed. Louisiana State Police will not process incomplete forms. Incomplete forms will be returned. (See Fingerprint Card instructions.)
- () F. Wholesale lenders must submit the following:
____ Names & addresses of brokers from whom you accept loan applications for Louisiana;
____ Letter from financial institution stating the amount of your warehouse line of credit or evidence of your ability to fund loans;
____ Statement signed by the President/CEO of your company that you do not originate loans for Louisiana consumers.
- () G. Completed Residential Mortgage Information page. All questions must be answered (if N/A, so state)
- () H. Attach **one** of the following:
____ \$50,000 surety bond from a surety company licensed to do business in Louisiana;
____ Financial statements (including balance sheet, income statement, change in equity capital, and cash flow statement) audited by a properly licensed Certified Public Accountant approved to conduct audits in the state in which the applicant is located and audited, which shows a net worth of at least \$50,000 and prepared within the previous;
____ Deposit, irrevocably pledged to the Commissioner, of \$50,000 in a federally insured depository institution located in Louisiana; or
____ Securities of a type approved by the Commissioner, irrevocably pledged to the Commissioner, and having a value of not less than \$50,000.

- () I. Certificate of Resolution (Attachment A) stating who can sign official documents on behalf of the applicant. (NOTE: The Certificate of Authority should be signed by an officer/director/owner other than the person being given authority to sign.)
- () J. Authority To Obtain Information From Outside Sources form (Attachment B) must be completed and notarized for everyone listed in #16 and every originator.
- () K. A current 10-year employment/experience form for everyone listed in #16 including sole proprietors and originators. (Attachment C).
- () L. Residence addresses for the last 10 years for everyone listed in #16 and originators (Attachment D).
- () M. Agent for Service of Process Acknowledgement form to be completed by all applicants. Agents must be domiciled in Louisiana (Attachment E).
- () N. If applicant is a corporation or LLC, provide copies of the following:
- _____ Certificate of Incorporation, or Certificate of Organization if an LLC, issued by the Louisiana Secretary of State.
 - _____ Articles of Incorporation and Bylaws and any amendments thereto; or Articles of Organization if an LLC, and a copy of the Operating Agreement.
 - _____ If a foreign corporation, evidence of filing as a foreign corporation with the Louisiana Secretary of State. You may contact the Louisiana Secretary of State's Office at (225) 925-4704.
 - _____ If applicant is a partnership, provide a copy of the Partnership Agreement.
- () O. Mortgage brokers must submit a copy of their Mortgage Loan Origination Agreement (sample enclosed).
- () P. Mortgage lenders must submit a copy of their promissory note and addendums if the company appears as the lender or creditor on the promissory note at closing.
- () Q. List of all employees of Louisiana locations, including branch managers and processors.

Contact Jane Miller at (225) 925-3828 or jmiller@ofi.state.la.us if you have questions pertaining to this application.

Applications may be mailed or hand delivered to:

**Office of Financial Institutions
8660 United Plaza Boulevard – 2nd Floor
Baton Rouge, LA 70809**

or

**Office of Financial Institutions
P. O. Box 94095
Baton Rouge, LA 70804**



STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA



June 21, 2005

The purpose of this correspondence is to remind licensees of their responsibility to provide privacy disclosures to their clients and ensure that their personal information remains secure, as required by The Financial Modernization Act of 1999, also known as sub-title "A" of Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq. and regulations promulgated thereunder, i.e. 16 C.F.R. 313 and 16 C.F.R. 314.

The Act provided that the Federal Trade Commission (FTC) enforce the privacy provisions on non-bank affiliated mortgage brokers, and lenders. In response, the FTC promulgated two rules, the Financial Privacy Rule effective November 13, 2000 and the Safeguards Rule effective May 23, 2003, referred to above.

The Privacy Rule requires brokers and lenders to give privacy disclosures to consumers no later than when you establish a customer relationship (defined in rule) with them. This disclosure is not required for brokers or lenders who do not disclose personal information to nonaffiliated third parties other than as necessary to effect, administer, or enforce a transaction which the consumer requests.

The Safeguards Rule requires brokers and lenders to develop a comprehensive written information security program. The objectives of the rules are to: 1) Insure the security of customer information; 2) Protect against anticipated threats or hazards to the security or integrity of such information; and 3) Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

Mortgage brokers and lenders should review these Rules and ensure that they have proper policies and procedures in place to provide required disclosures to consumers and to ensure that the personal information of consumers remains secure and confidential. Copies of the rules may be obtained from the internet at the following addresses:

http://www.ftc.gov/privacy/privacyinitiatives/financial_rule_lr.html (Financial Privacy Rule) and,

http://www.ftc.gov/privacy/privacyinitiatives/safeguards_lr.html (Safeguards Rule).

Sincerely,

Darin Domingue, CEM
Deputy Chief Examiner

DJD:tp

Following is a reprint of a letter from the Secretary of the Department of Housing and Urban Development.

To: Mortgage Broker Applicants

Re: Loan Broker services required by HUD in order to justify fees under RESPA.

On February 14, 1995, HUD deviated from its policy of issuing only rules, regulations and interpretations of general applicability and provided two mortgage corporations with an unofficial interpretation relative to the mortgage program they operate. HUD did this, in part, because the interpretive rule it was developing was not likely to be finished in the "near future." While non-binding and providing no protection under section 19(b) of RESPA, the letter provides the first guidance from HUD as to what services justify the payment of a fee relative to the origination of a mortgage loan under Section 8 of RESPA.

The February letter also reaffirms the mere taking of a mortgage application "is not sufficient work to justify a fee under RESPA" and that HUD will look at each fact pattern to determine whether the work alleged was actually performed, whether the services involved were necessary for the transaction, and whether they were "duplicative of services also performed by others."

HUD then listed 14 services normally involved in the origination of a loan, including counseling services, as follows:

- (a) taking information from the borrower and filling out the application;
- (b) analyzing the prospective borrower's income and debt and pre-qualifying the prospective borrower to determine the maximum mortgage that the prospective borrower can afford;
- (c) educating the prospective borrower in the home buying and financing process, advising the borrower about the different types of loan products available, and demonstrating how closing costs and monthly payments would vary under each product;
- (d) collecting financial information (tax returns, bank statements) and other related documents that are part of the application process;
- (e) initiating/ordering VOEs (verifications of employment) and VODs (verifications of deposits);
- (f) initiating/ordering requests for mortgage and other loan verifications;
- (g) initiating/ordering appraisals;
- (h) initiating/ordering inspections or engineering reports;
- (i) providing disclosures (truth-in-lending, good faith estimate, others) to the borrower;
- (j) assisting the borrower in understanding and clearing credit problems;
- (k) maintaining regular contact with the borrower, realtors, lender, between application and closing to appraise them of the status of the application and to gather any additional information as needed;
- (l) ordering legal documents;
- (m) determining whether the property was located in a flood zone or ordering such service; and
- (n) participating in the loan closing.

HUD went on to explain that no RESPA violation would be found if: "the lender's agent or contractor took the application; the lender's agent or contractor performed at least five additional items on the list above; and the fee was reasonably related to the market value of the services that were performed."

However, where an agent or contractor is relying on taking an application and performing only counseling-type services to justify a fee, HUD will look to see that "meaningful counseling", not steering, is provided. In these circumstances, HUD would find no violation if the counseling gave the borrower at least three different lenders; the agent or contractor receives the same compensation no matter which lender's product is selected; and any payment for counseling-type services are reasonably related to the services performed and not based on the amount of business referred to the lender.

In its more recent June letter, HUD has, concluded that the filling out of a loan application is not required to justify a fee where the other services listed are performed and that "filling out a borrower's work sheet" could be "substituted for the act of filling out a mortgage loan application" in the context of one of the mortgage corporation's program.

HUD went on to clarify that if one performs only non-counseling services or a mixture of counseling and non-counseling services (and not solely the five counseling services in the February letter) then HUD's concerns as to steering would be eliminated and no further test would apply to the subject mortgage program. This presumably means that the test of "meaningful counseling: and the three specific tests noted above (loan products from at least three lenders, etc.) would not have to be met.

LOUISIANA REVISED STATUTES TITLE 6
CHAPTER 14 RESIDENTIAL MORTGAGE BROKERS
AND LENDERS

PART I. GENERAL PROVISIONS

(As amended by the 2006 regular session of the Louisiana Legislature)

§1081. Short title

This Chapter shall be known and may be cited as the "Residential Mortgage Lending Act".

§1082. Purpose

The Legislature of Louisiana does hereby declare that it is in the best interest of the citizens of the state to protect consumers in the most important financial investment most will make, the purchase of a home, by requiring the licensing and certification of residential mortgage lenders. The purpose of this Chapter is to promote the safety and welfare of the people of the state by providing for regulatory oversight and by establishing educational requirements in a professional field in which unqualified individuals may injure or mislead the public.

§1083. Definitions

As used in this Chapter:

- (1) "Board" means the Residential Mortgage Lending Board.
- (2) "Commissioner" means the Commissioner of the Office of Financial Institutions.
- (3) "Consumer" means a natural person who enters into or seeks to enter into a residential loan transaction for a personal, family, or household purpose.
- (3.1) "Federally related mortgage loan" means an extension of credit to a consumer secured by a first mortgage on residential immovable property: including a mobile home which will be immobilized pursuant to R.S. 9:1149.4, located in this state, and designed principally for the occupancy of from one to four families; and which is one of the following:
 - (a) An extension of credit made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the federal government, or is made in whole or in part by any lender which is regulated by any agency of the federal government.
 - (b) An extension of credit made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the federal Department of Housing and Urban Development, or any other agency of the federal government or under or in connection with a housing or urban development program administered by the Department of Housing and Urban Development or a housing or related program administered by any other such agency.
 - (c) An extension of credit intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation.
 - (d) An extension of credit made in whole or in part by any creditor, as defined in Section 103(f) of the federal Consumer Credit Protection Act (15 U.S.C. S.1602(f)), who makes or invests in consumer real estate loans aggregating more than one million dollars per year.
- (4) "Mortgage broker" means any person who, directly or indirectly, for compensation or the expectation of compensation, negotiates, places, or finds, or offers to negotiate, place, or find a residential mortgage loan for another person. "Mortgage broker" also shall include:
 - (a) An approved Federal Housing Administration loan correspondent.
 - (b) A residential mortgage lender who closes a residential mortgage loan in his own name but for whom the funding for the loan is provided by a third party lender in a process known as table funding.
- (5) "Mortgage lender" means any person who, directly or indirectly, originates or makes, or offers to originate or make, a residential mortgage loan for another person.
- (6) "Originator" means a natural person who is an employee of a mortgage broker, mortgage lender, or person exempt from licensure, who is not acting as a mortgage broker as defined in this Section or as a mortgage lender as

defined in this Section, who interviews the consumer in connection with the consumer's application for a residential mortgage loan. "Originator" does not include employees of a licensed mortgage broker or mortgage lender, or employees of a person who is exempt from licensure under the provisions of Part II of this Chapter, who perform clerical duties in connection with residential mortgage loan transactions, including but not limited to collecting financial information and other related documents that are part of the application process, ordering verifications of employment, verifications of deposits, requests for mortgage payoffs, and other loan verifications, appraisals, inspections, or engineering reports, or who perform the functions of a loan processor, at the direction of and subject to the supervision of the mortgage broker, mortgage lender, originator, or person exempt from licensure, who is responsible for such direction and supervision.

(7) "Person" means any individual, firm, corporation, partnership, association, trust, or legal or commercial entity, or other group of individuals however organized.

(7.1) Repealed by Acts 2001, No. 617, § 3, eff. June 22, 2001.

(8) "Principal stockholder" means any person owning ten percent or more of the outstanding stock of a corporate mortgage broker or mortgage lender.

(9) "Residential loan transaction" means any agreement by a consumer with a mortgage broker or mortgage lender in connection with a residential mortgage loan.

(10) "Residential mortgage lender" means a person who engages in a residential mortgage lending activity as a mortgage broker or mortgage lender, or both.

(11) "Residential mortgage lending activity" means an activity, including electronic activity, engaged in for compensation or with the expectation of compensation in connection with a residential loan transaction, including the origination or funding of a residential mortgage loan and the negotiation and placement, or offering to negotiate, place, or find a residential mortgage loan for another person.

(12) "Residential mortgage loan" means:

(a) A federally related mortgage loan, which is entered into on a closed-end credit basis as defined under 12 CFR S.226.2(a)(10).

(b) A consumer loan secured by a mortgage on residential immovable property not specifically contracted for under the Louisiana Consumer Credit Law. Consumer loans otherwise subject to the Residential Mortgage Lending Act may be made contractually subject to the Louisiana Consumer Credit Law by specifically stating that the loan is subject to the Louisiana Consumer Credit Law.

§1084. Prohibition

No person, directly or indirectly, shall engage in a residential mortgage lending activity in this state without complying with the provisions of this Chapter or the rules or regulations promulgated pursuant to this Chapter.

§1085. Rules and regulations

The commissioner shall promulgate rules and regulations in accordance with the Administrative Procedure Act as may be necessary to effectuate the purposes, administration, and enforcement of the provisions of this Chapter.

PART II. LICENSURE, REGISTRATION, AND CERTIFICATION

§1086. Licensure requirement

- A. Beginning January 1, 2000, no person shall engage in any residential mortgage lending activity in this state unless such person has first obtained a license in accordance with the provisions of this Chapter. Any person engaged in residential mortgage lending activities in this state on January 1, 1999, may continue to be so engaged and shall by March 1, 2000, have applied for a license and by July 1, 2000, have obtained a license.
- B. Any mortgage broker license in effect on July 9, 1999 shall remain in effect and shall be renewed after January 1, 2000, in accordance with the provisions of this Chapter.
- C. Any mortgage broker or lender engaged in residential mortgage lending activities pursuant to an exemption granted under R.S. 6:1087(C), with an active registration filed pursuant to R.S. 6:1087(D), may continue to be so engaged until expiration of the exemption on January 1, 2004. Thereafter, no mortgage broker or lender previously exempt pursuant to R.S. 6:1087(C) may engage in residential mortgage lending activity without a license.

§1087. Exemptions; annual registration statement; fees

- A. Any person authorized to engage in business as a credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia, and any subsidiary of such person, and the employees of such person, shall be exempt from the provisions of this Chapter.
- B. The following employers and their employees shall be exempt from the provisions of this Part:
- (1) Any person authorized to engage in business as a bank, savings bank, or savings and loan association under the laws of the United States, any state or territory of the United States, or the District of Columbia, and any direct or indirect subsidiaries of such entities, who are subject to general supervision and regulation, or audit or examination, by a regulatory body or agency of the United States, any state or territory of the United States, or the District of Columbia, and the employees of such persons, including those acting as originators and their exclusive agents under written agreement.
 - (2) Any attorney licensed to practice law when such attorney is not actively engaged in the business of making or brokering residential mortgage loans and the residential mortgage lending activity is incidental to providing legal services.
 - (3) Any nonprofit corporation exempt from federal taxation under Section 501(c) of the Internal Revenue Code making residential mortgage loans to promote home ownership or home improvements for the disadvantaged.
 - (4) Any agency of the federal government, or a state or municipal government, or any quasi governmental agency making residential mortgage loans under the specific authority of the laws of any state or the United States.
 - (5) Any person acting as a fiduciary with respect to any employee pension benefit plan qualified under the Internal Revenue Code who makes residential mortgage loans solely to plan participants from plan assets.
 - (6) Any real estate investment trust.
 - (7) Any person acting in a fiduciary capacity conferred by the authority of any court.
 - (8) Any person licensed as a small business investment company by the United States Small Business Administration.
 - (9) Any mortgagee in a residential loan transaction in which the mortgagee is the former owner of the residential immovable property.
 - (10) Repealed by Acts 2005, No. 235, § 2, eff. August 15, 2005.
 - (11) Any insurance company authorized by the insurance commissioner of this state or any other state and any resident or nonresident insurance agent who holds an unexpired agent license under Title 22 of the Louisiana Revised Statutes of 1950 who brokers loans exclusively to an insurer.
 - (12) Any person authorized to engage in business as a licensed lender under the provisions of the Louisiana Consumer Credit Law, R.S. 9:3510 et seq., whose gross revenue from loans subject to the Louisiana Consumer

Credit Law exceeds fifty percent of the licensee's gross revenue; however, such persons shall remain subject to the examination and enforcement provisions of R.S. 6:1091 and 1092 for those loans subject to R.S. 6:1081 et seq.

C. (1) Employees and the exclusive agents under written agreement of any person licensed pursuant to this Part which is a direct or indirect subsidiary of a financial or bank holding company, savings bank holding company, or thrift holding company, shall be exempt from the licensure and continuing education provisions of this Part.

(2) Any person exempt from licensure under Subsection B shall engage in residential mortgage lending activities only through natural persons who are licensed as a mortgage broker, mortgage lender, or originator, or who are registered according to the provisions of this Chapter, or who are exempt from the provisions of this Part.

D. Repealed by Acts 2003, No. 875, § 2.

E. The commissioner may promulgate regulations authorizing the licensure and license renewal of persons otherwise exempt from licensure under this Part who wish to be licensed as provided in this Part. The regulations shall establish the conditions under which exempt persons may obtain licensure and the effects of such licensure, including but not limited to the extent of the examination and enforcement authority of the commissioner over such persons, but in no event shall the professional education requirements be less than those applicable to licensees generally.

F. Pursuant to regulations adopted by the commissioner, no residential mortgage lender shall enter into a residential mortgage lending transaction with a person who is not in compliance with the licensing provisions of this Chapter as a mortgage broker, mortgage lender, or originator.

§1088. Application for licensure; issuance of licenses; application and renewal fees

A. An application for a license under this Chapter shall be made in writing, under oath, and on a form prescribed by the commissioner. Each license shall expire on December thirty-first of the year in which the license was issued.

B. Repealed by Acts 2001, No. 617, § 3, eff. June 22, 2001.

C.(1) Each applicant for licensing as a mortgage lender or a mortgage broker, or both, shall, at the time of application for licensure or any renewal of a license, provide evidence of financial responsibility and solvency in one of the following forms:

(a) An audited financial statement prepared by a certified public accountant that meets the independent requirements of the profession. The applicant shall maintain a net worth of fifty thousand dollars or more during the licensing year. The date of the audit must be no more than eighteen months prior to the application or renewal date. The licensee must submit the annual audit to the commissioner within sixty days of receipt of such audit.

Failure to submit the audited financial statements or furnish other acceptable evidence of financial responsibility within the time periods required by this Subsection may result in a late filing fee not to exceed one thousand dollars and may result in suspension or revocation of licenses in accordance with the provisions of this Chapter.

(b) A deposit, irrevocably pledged to the commissioner, of fifty thousand dollars in a federally insured depository institution located in Louisiana, designated by the applicant, and approved by the commissioner. The applicant shall receive all interest earned on the deposit.

(c) Securities of a type approved by the commissioner, including but not limited to bonds of the state or any of its political subdivisions or bonds of the United States government, having a value of not less than fifty thousand dollars irrevocably pledged to the commissioner. The applicant shall receive all interest or dividends earned on the securities.

(d) A surety bond authorized by a surety insurer licensed to do business in this state in the amount of fifty thousand dollars. The surety bond shall name the office of financial institutions and shall be filed with the application or renewal.

(2) An applicant who is a natural person and is employed by a juridical person engaging in residential mortgage lending activities as a mortgage broker or mortgage lender may demonstrate his financial responsibility and solvency by submitting evidence that his employer satisfies the requirements established in this Subsection.

D. If the applicant has multiple office locations, all such locations may be covered by a single license by including in the license application the address of each office operated by the applicant and the name and license number of

the individual licensees engaging in residential mortgage lending activities at that location. A copy of the applicant's license certificate shall be prominently displayed at each office at which it does business.

E. The application shall be accompanied by the following nonrefundable fees as determined by and payable to the commissioner:

(1) In the case of an application for a license to act as a mortgage lender, a mortgage broker, or both, a license fee in an amount not to exceed four hundred dollars.

(2) In the case of an application for a license to act as an originator, a license fee in an amount not to exceed one hundred dollars.

(3) An annual license renewal fee for each person licensed as a mortgage broker or mortgage lender in an amount not to exceed three hundred dollars. An annual license renewal application received by the commissioner postmarked after December first shall be accompanied by a late filing fee of two hundred dollars, in addition to the annual license renewal fee.

(4) An annual license renewal fee for each originator in an amount not to exceed one hundred dollars. An annual license renewal application received by the commissioner postmarked after December first shall be accompanied by a late filing fee of fifty dollars, in addition to the annual license renewal fee.

F.(1) Each person licensed as a mortgage broker or mortgage lender shall file an annual license renewal application on or before November first of each year on a form prescribed by the commissioner.

(2) Each originator shall file an annual license renewal application on or before November first of each year on a form prescribed by the commissioner.

(3) Annual renewal applications shall be accompanied by the appropriate filing fee. Annual license renewal applications received by the commissioner postmarked after December first shall be charged a late filing fee.

(4) A license for which a renewal application was timely filed on or before the December thirty-first license expiration date shall remain in force and effect until such application is approved or rejected by the commissioner.

An application for renewal shall not require a new licensing decision by the commissioner and may only be rejected for incompleteness, failure to maintain the financial responsibilities required by this Section, or failure to pay any penalty which was previously accrued or imposed upon the applicant. Nothing in this Section shall preclude the commissioner from implementing any administrative or enforcement action authorized by this Title for violations or material misrepresentation which may have occurred prior to the renewal date of a license.

Licenses for which renewal applications are filed after December thirty-first shall be deemed to have expired automatically on January first unless the applicant shows good cause for late renewal and pays a reinstatement penalty in an amount not to exceed one thousand dollars. ~~No new license shall be issued upon the filing of a new application by any person against whom any penalty or fee has been imposed unless and until such penalty or fee previously accrued under this Section has been paid.~~

(5) A natural person, licensed as a mortgage broker, mortgage lender, or originator, who, during the course of the year, becomes exempt from licensure, or becomes inactive in residential mortgage lending activities, may maintain his license by filing the annual license renewal application, paying the annual license renewal fee, and by satisfying the continuing professional education requirements for renewal established by this Chapter.

G.(1)(a) No license shall be issued upon the filing of an application by a person upon whom any penalty or fee has been imposed unless and until such penalty or fee has been paid. No new originator license shall be issued upon the filing of an application until any and all penalties or fees owed by the residential mortgage lender who employs or will employ the applicant have been paid. This Section shall not be applicable to any fee or penalty which is subject to an administrative action pursuant to the Administrative Procedure Act.

(b) No license shall be issued unless the commissioner, upon investigation, finds that the financial responsibility, character, and fitness of the applicant, its owners, and its members, if the applicant is a partnership, and its officers and directors, if the applicant is a corporation, are such as to warrant a belief that the business will be conducted honestly and fairly within the purposes of this Chapter. The commissioner may grant restricted or conditional licenses.

(c) Notwithstanding the provisions of R.S. 37:2950, when determining an applicant's character and fitness, the commissioner may consider the criminal record of an applicant for a new license or a renewal thereof, and may

deny such application if the applicant's criminal record includes a plea of guilty or nolo contendere to, or conviction of, any felony within ten years of the date of submission of the application.

(2)(a) Upon written request, an applicant is entitled to a hearing on the question of his qualification for a license if either:

(i) The commissioner has notified the applicant in writing that his application has been denied.

(ii) The commissioner has not issued a license within sixty days of the date the application for licensure was filed.

(b) A request for a hearing may not be made more than thirty days after the applicant has received the written notice notifying him that the application was denied and stating the commissioner's findings in support of the denial of the application.

(3) Any person whose application or renewal application for licensure under this Chapter has been denied for any reason may not reapply for a license under this Chapter until at least three years have elapsed from the date of the order of denial, unless the commissioner, in his sole discretion, prescribes an earlier date or later date. For purposes of this Paragraph, the order shall be considered to be the first to occur of either the date of the issuance of the commissioner's notification of denial of the person's application, or sixty days after the filing of that application, and a person shall include the applicant, its owners, and its members if the applicant is a limited liability company, its partners, if the applicant is a partnership, its officers and directors, if the applicant is a corporation, and any other person determined by the commissioner, in his sole discretion, to be closely related to the person.

~~(3)~~ (4) Beginning July 1, 2000, no natural person shall be licensed as a mortgage broker, mortgage lender, or originator unless the applicant is certified as provided in this Chapter.

§1089. Name or location changes and closures; fees

- A. (1) No residential mortgage lender or originator shall conduct the residential mortgage lending activities provided for in this Chapter under any name other than one stated on its license or annual registration statement.
- (2) A residential mortgage lender shall notify the commissioner of a change in the location or name of the business or the addition of offices in writing prior to the change. A notice of change of location or name or addition of offices shall be accompanied by a filing fee of one hundred dollars.
- (3) A residential mortgage lender shall notify the commissioner of the closing of any office in writing and within thirty days of such closure.
- B. (1) Whenever the employment of an originator changes, whether by the originator's action or otherwise, the originator shall give written notice of the change of employment to the commissioner within thirty days of such change. The notice shall be accompanied by a filing fee of fifty dollars.
- (2) Whenever the employment of an originator employed by a mortgage broker or mortgage lender changes, whether by the originator's change of employment or otherwise, the employer, unless exempted from the provisions of this Part, shall give written notice of the change in identity to the commissioner within thirty days of the change.
- (3) Failure to notify the commissioner within the prescribed time as required by this Section shall result in a one hundred dollar late filing fee.

§1090. Restrictions

- A. No license shall be sold or otherwise transferred.
- B. (1) No person shall acquire or control a license to make or broker residential mortgage loans through the acquisition or control of ~~fifty~~ fifty-one percent or more of the ownership interest in a licensee without first having obtained written approval from the commissioner, pursuant to an application for a change of control in ownership of the licensee, filed in the manner and on a form prescribed by the commissioner and accompanied by a fee of three hundred dollars. Any person who acquires controlling interest in a licensee without first having filed an application for change of control with the commissioner shall be deemed to be operating without proper authority under this Chapter and is subject to the penalties of R.S. 6:1092(C).
- (2) For the purposes of this Section, a person acquires or controls the licensee when at least one of the following conditions exists:
- (a) The person, directly or acting through one or more other persons, owns, controls, or has the power to vote any class of stock of the corporation.
 - (b) The person controls in any manner the election of a majority of the directors of the corporation.
 - (c) The commissioner determines, after notice and an opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the management or the policies of the licensee.
- (3) When the licensee is a limited liability company or a limited liability partnership, the licensee is acquired or controlled if one of the following occurs:
- (a) There is a change of managers or general partners.
 - (b) An existing manager or general partner acquires or controls the licensee as provided in Paragraph (2) of this Subsection.
 - (c) The commissioner determines that there has been a significant change in the membership or partnership interests, including but not limited to a change in ownership or control, directly or indirectly affecting twenty-five percent or more of the total interest of the licensee.
- (4) A corporation that is a licensee shall notify the commissioner within sixty days of a stockholder becoming a principal stockholder.
- C. No person may act as an originator in a residential loan transaction unless such person is employed by a licensed mortgage broker or mortgage lender, by a person exempt from the provisions of this Part, or by a person exempt from licensure under the provisions of R.S. 6:1087(C).
- D. A mortgage broker shall only broker a residential mortgage loan to a mortgage lender licensed pursuant to this Chapter, to a mortgage lender exempt from the provisions of this Part, or to a mortgage lender exempt from licensure under the provisions of this Chapter.

E. Any person licensed under this Chapter shall engage in residential mortgage lending activities only through a natural person who is licensed as a mortgage broker, mortgage lender, or originator, or who is registered according to the provisions of this Chapter, or who is exempt from the provisions of this Part.

F. Pursuant to regulations adopted by the commissioner, no licensed residential mortgage lender shall enter into a residential mortgage lending transaction with a person who is not in compliance with the licensing provisions of this Chapter as a mortgage broker, mortgage lender, or originator.

G. No residential mortgage lender is permitted to operate a "Net Branch" in this state except as permitted by rules promulgated by the commissioner.

H. No person who has been denied a license or had a license revoked and which person has failed to request an administrative hearing pursuant to R.S. 6:1088(G)(2) or 1092(A), or whom a denial or revocation was affirmed in an administrative hearing, may be employed as a processor of mortgage loans or hold a position which is responsible for the operation of the principal place of business of a branch of any residential mortgage lender licensed under this Chapter.

§1091. Recordkeeping and retention; examinations; investigation of complaints

A. Each residential mortgage lender required to be licensed under this Chapter shall maintain in its offices such books, records, and accounts of its residential mortgage lending activities as the commissioner may reasonably require in order to determine whether such residential mortgage lender is complying with the provisions of this Chapter and the rules and regulations promulgated under the provisions of this Chapter. Required records may be maintained in any electronic format consistent with the residential mortgage lender's ordinary business practices unless the licensee receives specific written instructions from the commissioner to the contrary. Such books, records, and accounts shall be maintained separate and apart from any other business in which the mortgage lender or mortgage broker is involved and shall be kept at the location in the state at which the residential mortgage lending activity occurred or at the residential mortgage lender's principal office unless otherwise permitted in writing by the commissioner. Records must be made available for review or examination at a nonresidential location approved by the commissioner.

B.(1) The commissioner may examine the books, records, and accounts of any licensed residential mortgage lender and of any formerly licensed residential mortgage lender which is engaged in the collection or enforcement of mortgage loans or brokerage agreements. If the records are located outside of the state, the residential mortgage lender shall make them available to the commissioner at a location within this state convenient to the commissioner or pay the reasonable and necessary expenses for the commissioner or his representative to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on his behalf.

(2) The commissioner shall assess an examination fee in an amount not to exceed four hundred dollars per location examined. If the examination fee is not paid within thirty days of its assessment, the person examined shall be subject to an administrative penalty of not more than fifty dollars for each day it is delinquent.

C.(1) If the commissioner receives a written complaint pertaining to the residential mortgage activities of a person exempt from the provisions of this Part or this Chapter, or exempt from licensure pursuant to the provisions of R.S. 6:1087, the commissioner may refer the complaint to the exempted entity for comment or response. If the complaint is not thereby resolved, the commissioner may refer such complaints to the appropriate federal or state regulatory, licensing, supervisory, or auditing agency or body.

(2) If the commissioner receives a written complaint pertaining to residential mortgage activities of any other exempt person not provided for in Paragraph (1) of this Subsection or if the federal or state regulatory, licensing, supervisory, or auditing agency or body to which the complaint has been referred fails to respond to the complaint within a reasonable period of time, the commissioner may require the residential mortgage lender to respond in writing to the complaint, may conduct such examinations as he deems necessary in response to such complaint, and may assess such persons an examination fee as provided in this Section.

§1092. Suspension and revocation of licensure; revocation of exemption; disposition of funds; commissioner's interpretations

- A. After notice and an opportunity to be heard as provided in the Administrative Procedure Act, the commissioner may suspend or revoke the license of any residential mortgage lender and, as applicable, of any originator who:
- (1) Violates any of the provisions of this Chapter or any rule or regulation promulgated or any order, including a cease and desist order, issued pursuant to this Chapter.
 - (2) Violates any provision of a voluntary consent or compliance agreement which has been entered into with the commissioner.
 - (3) Has knowingly provided or caused to be provided to the commissioner any false or fraudulent misrepresentation of material fact or any false or fraudulent financial statement, or has suppressed or withheld from the commissioner any information which if submitted by him would have resulted in denial of the license application.
 - (4) Refuses to permit an examination by the commissioner of his books and affairs, or has refused or failed within a reasonable time to furnish any information or make any report that may be required by the commissioner under the provisions of this Chapter.
 - (5) Fails to maintain records as required by the commissioner after being given written notice and thirty days within which to correct the failure. The commissioner may grant, on good cause shown, up to two thirty-day extensions within which to correct the recordkeeping violations.
 - (6) Continues in office any individual with power to direct the management or policies of a person regulated by the Chapter, including but not limited to any officer, director, or manager if such individual is convicted of, pleads guilty to, or is found guilty after a plea of nolo contendere of any felony under any state or federal law which involves moral turpitude or which involves any aspect of the business of making or brokering residential mortgage loans.
 - (7) Violates any provision of a regulatory or prohibitory statute and has been found to have violated such statute by the governmental agency responsible for determining such violations.
 - (8) Misrepresents material facts or makes false promises likely to influence, persuade, or induce an applicant into making a residential mortgage loan or a mortgagor into taking a mortgage loan, or pursues a course of misrepresentation through agents or otherwise.
 - (9) Misrepresents or conceals material facts, terms, or conditions of a transaction to which he is a party, pertinent to an applicant for a mortgage loan or a mortgagor.
 - (10) Knowingly engages in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with the making, purchasing, sale, or brokering of any mortgage loan.
 - (11) Fails to account for or deliver to any person any personal property obtained in connection with a residential mortgage loan, including but not limited to money, funds, deposits, checks, drafts, mortgages, or other documents or things of value, which has come into his hands and which is not his property, or which he is not entitled by law to retain.
 - (12) Fails to disburse, without just cause, any funds in accordance with any agreement connected with a residential mortgage loan.
 - (13) Fails to pay any fee or assessment imposed by this Chapter or by any rule or regulation promulgated in accordance with this Chapter.
 - (14) Violates the written restrictions or conditions under which the license was issued.
 - (15) Fails, after notice and without lawful excuse, to obey any order or subpoena issued by the commissioner.
 - (16) The commissioner discovers any fact or condition currently exists which, if it had existed at the time of the original application for licensure, would have warranted the denial of the application.
 - (17)(a) Notwithstanding any law to the contrary, and in addition to any other authority conferred upon the commissioner by any other provision of law, the commissioner may order an immediate suspension of the license of a residential mortgage lender or originator who:
 - (i) Fails to maintain financial responsibility as required by R.S. 6:1088(C).
 - (ii) Commits serious violations of this Chapter such that, in the opinion of the commissioner, the public safety and welfare demand that emergency action be taken.
 - (iii) Submits a check covering the fee for any application, notification, examination, late fee, or penalty which is returned by the licensee's depository institution.

(b) A person for whom a license is suspended under this Paragraph shall have thirty days from the date of the order to request a hearing in accordance with the Administrative Procedure Act. Failure to timely request a hearing shall constitute a waiver of appeal rights regarding the suspension.

B. After notice and an opportunity to be heard in accordance with the Administrative Procedure Act, the commissioner may revoke the exemption from licensure of any person who:

(1) Has knowingly filed an annual registration statement with the commissioner containing a false or fraudulent misrepresentation of a material fact, or has suppressed or withheld from the commissioner any information which if submitted by him would have resulted in denial of the exemption.

(2) After examination of a written complaint filed with the commissioner, is found to have knowingly engaged in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with the making, purchasing, sale, or brokering of any residential mortgage loan.

C. In addition to any other authority conferred upon the commissioner by this Chapter or this Title, the commissioner may order refunds of the unauthorized portion of any fee or charge a mortgage broker or originator collects in violation of this Chapter, and may impose a fine or penalty not exceeding one thousand dollars upon any residential mortgage lender who is found in an administrative proceeding to have violated any of the provisions of this Chapter or any rule or regulation promulgated in accordance with this Chapter. Each separate violation shall subject the violator to such fine or penalty and each day the violator acts as a residential mortgage lender without complying with the provisions of this Chapter, or the rules or regulations promulgated in accordance with this Chapter, shall constitute a separate violation.

D. Repealed by Acts 2003, No. 875, § 2.

E. The commissioner may report egregious violations to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided for in this Section.

F. No act done or omitted in conformity with any advisory opinion or interpretation issued by the office of financial institutions at the time of the act or omission or subsequent to the act or omission shall constitute a violation of this Chapter, notwithstanding that after such act or omission has occurred, such advisory opinion or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason. Advisory opinions and interpretations of the office of financial institutions shall not be considered rules requiring compliance with the rulemaking process of the Louisiana Administrative Procedure Act. The commissioner and the employees of the office of financial institutions shall have no liability to any person with respect to an advisory opinion or interpretation issued in connection with this Chapter.

G. Any person who acts as a mortgage broker or originator without complying with the licensing provisions of this Chapter shall be subject to forfeiture of the compensation attributable to and received by the mortgage broker or originator in connection with residential mortgage lending activity occurring on or after August 15, 2001; provided that the forfeiture of such compensation by the mortgage broker or originator shall not impair the validity of the note and mortgage.

H. All of the grounds for license suspension or revocation listed in Subsection A of this Section are violations of this Chapter and may serve as the basis for any other enforcement action provided to the commissioner by this Title.

I. The commissioner may share information about any particular entity which is chartered, licensed, or registered by the commissioner with any state or federal agency having concurrent jurisdiction over such entity with the Office of Financial Institutions.

J. The commissioner may make public any final administrative action instituted against a licensee or exempt registrant for a violation of this Chapter, including cease and desist orders, civil money penalty assessments, license suspension, revocation, or application denials.

K. Any person whose license under this Chapter has been revoked for any reason may not reapply for a license until at least five years have elapsed from the date of the order of revocation, unless the commissioner, in his sole discretion, prescribes an earlier or later date. For purposes of this Subsection, the order shall be considered to be the commissioner's notification of revocation of the person's license, and a person shall include the applicant, its owners, and its members if the applicant is a limited liability company, its partners if the applicant is a partnership,

its officers and directors, if the applicant is a corporation, and any other person determined by the commissioner, in his sole discretion, to be closely related to the person.

§1092.1 Cost of appeal

Subject to the provisions of R.S.13:4521 and 4581, all estimated costs of appeal, including those involved in the preparation of the administrative record of appeal, taken by a person in connection with an adverse ruling of an administrative law judge in connection with a hearing held pursuant to this Chapter and the Administrative Procedure Act, shall be paid by that person within sixty days of the filing of the petition for appeal in the district court. Failure to pay such estimated costs within the time prescribed shall result in the appeal being dismissed with prejudice and without the necessity of any further action being taken by any party.

§1092.2 Validity of judgment; execution

Any final and definitive decision of an administrative law judge or, in the case such decision is appealed, a final judgment of an appellate court, issued in connection with any hearing held pursuant to this Chapter and the Administrative Procedure Act shall be considered a valid and final judgment that may be made executory by the commissioner in accordance with the Code of Civil Procedure.

§1093. Residential Mortgage Lending Board; creation; membership; qualifications; powers and duties

A. (1) There is hereby created the Residential Mortgage Lending Board within the office of financial institutions. The board shall be composed of five members, four of whom shall be appointed by the commissioner from a list of nominees submitted by the Louisiana Mortgage Lenders Association and the remaining member shall be the commissioner or his designee. The commissioner shall appoint at least one mortgage broker and at least one mortgage lender from the list of nominees.

(2) The residential mortgage lenders initially appointed to the board shall not be required to be licensed but shall have been engaged in mortgage lending activities for a minimum of three years. Thereafter, each residential mortgage lender appointed to the board shall be a mortgage broker or mortgage lender licensed or registered as provided for in this Chapter and shall have been engaged in mortgage lending activities for a minimum of three years.

(3) Appointed members shall serve two-year terms; however, no appointed member shall serve more than two consecutive terms.

(4) A vacancy on the board occurring prior to the expiration of a term shall be filled in the same manner as the original appointment for the remainder of the term.

(5) The board shall be domiciled in Baton Rouge, within the office of financial institutions, but may meet elsewhere in the state. The board shall meet at least quarterly at the call of the chairman.

(6) The members of the board shall annually elect a chairman and vice chairman.

(7) Three members of the board shall constitute a quorum.

(8) Members of the board shall receive no per diem, but shall be reimbursed for actual expenses for the attendance of meetings of the board or any of its committees and for time spent on behalf of the board on official business, not to exceed ten days in any month. Members shall be reimbursed for all necessary travel, incidental, and clerical expenses incurred in carrying out the provisions of this Chapter, as evidenced by voucher and upon approval of the commissioner. The commissioner shall provide staff support to the board.

B. The board shall:

(1) Advise the commissioner in connection with the commissioner's adoption of standards and policies under which credit shall be given for participation in a program of continuing professional education such as the commissioner, in consultation with the board, may consider necessary and appropriate to maintain the highest standards of the residential mortgage lending business in the state.

(2) Engage in such other advisory activities as the commissioner, in his sole discretion, shall deem useful.

C. Repealed by Acts 2001, No. 617, § 3, eff. June 22, 2001.

§1094. Professional education required for licensure; examination; continuing education

A. Beginning July 1, 2000, the commissioner shall require all applicants for licensure to have completed ten hours of professional education prior to the date on which the application is submitted. The commissioner, in consultation with the board, shall establish guidelines, by rule, governing the required professional education.

B. (1) Beginning August 15, 2005, each applicant for licensure shall pass a written examination administered by the commissioner or by a qualified designee of the commissioner. At least one examination shall be given each year, and additional examinations may be given if the volume of applicants makes additional examinations appropriate.

(2) The required examination shall test the applicant's knowledge of state and federal laws and regulations governing residential mortgage lending, mortgage loan closing and servicing practices, types of residential mortgage loan products available to consumers, and such other matters as may be required by the Examination Review Committee of the Residential Mortgage Lending Board, which shall be comprised of the five members of the board plus three additional committee members selected by the commissioner. The committee shall have the sole authority to review and approve the content of the examinations; however, in the event of a tie vote in the committee, the commissioner's vote shall be dispositive.

(3) The commissioner may impose and collect from the organization administering the examination a fee in an amount not to exceed fifty dollars for each examination graded by the commissioner or his designee.

(4) The provisions of Paragraph (1) of this Subsection shall not apply to an applicant for licensure who:

(a) Has received a bachelor's or master's degree in an area related to finance, banking, or business administration from an accredited college or university and has had within the three years immediately preceding the date of the application twelve months experience in the mortgage lending field as evidenced by documentary proof of full-time employment by a mortgage broker, mortgage lender, originator, or a person exempt from the provisions of this Part or this Chapter, performing the duties of one of the following:

(i) Mortgage broker as defined in R.S. 6:1083(4).

(ii) Mortgage lender as defined in R.S. 6:1083(5).

(iii) Originator as defined in R.S. 6:1083(6).

(iv) Mortgage loan processor, defined as a person who performs clerical duties in connection with residential mortgage loan transactions, including a minimum of four of the following activities performed at the direction of and subject to the supervision of the mortgage broker, mortgage lender, or person exempt from the provisions of this Part or this Chapter who is responsible for such direction and supervision:

(aa) Collecting financial information and other related documents that are part of the application process.

(bb) Ordering verifications of employment.

(cc) Ordering verifications of deposits.

(dd) Requesting mortgage payoffs.

(ee) Requesting other loan verifications.

(ff) Ordering appraisals.

(gg) Ordering inspections.

(hh) Ordering engineering reports.

(v) Mortgage loan underwriter, defined as a person who performs evaluation duties in connection with residential mortgage loans by reverifying, evaluating for accuracy, and validating the credit documents or appraisals provided by an originator or a mortgage loan processor.

(b) Has had within the three years immediately preceding the date of the application twenty-four months experience in the mortgage lending field as evidenced by documentary proof of full-time employment by a mortgage broker, mortgage lender, originator, or by a person exempt from the provisions of this Part or this Chapter, performing the duties of a:

(i) Mortgage broker as defined in R.S. 6:1083(4)

(ii) Mortgage lender as defined in R.S. 6:1083(5).

(iii) Originator as defined in R.S. 6:1083(6)

(iv) Mortgage loan processor, defined as a person who performs clerical duties in connection with residential mortgage loan transactions, including a minimum of four of the following activities performed at the direction of

and subject to the supervision of the mortgage broker, mortgage lender, or person exempt from the provisions of this Part or this Chapter who is responsible for such direction and supervision:

(aa) Collecting financial information and other related documents that are part of the application process.

(bb) Ordering verifications of employment.

(cc) Ordering verifications of deposits.

(dd) Requesting mortgage payoffs.

(ee) Requesting other loan verifications.

(ff) Ordering appraisals.

(gg) Ordering inspections.

(hh) Ordering engineering reports.

(v) Mortgage loan underwriter, defined as a person who performs evaluation duties in connection with residential mortgage loans by reverifying, evaluating for accuracy, and validating the credit documents or appraisals provided by an originator or a mortgage loan processor.

C.(1) Beginning July 1, 2000, all persons applying for reinstatement or renewal of their mortgage broker, mortgage lender, or originator license shall have completed ten hours of continuing professional education in order to reinstate or renew their license on January first of the following year. Each applicant shall submit documentation to the commissioner from a recognized professional educational institution approved by the commissioner showing that the applicant has received instruction in new developments in the residential mortgage lending business occurring since the prior issuance or renewal of such license. Proof of the applicant's completion of these continuing professional requirements shall be submitted as part of the applicant's license renewal application.

(2) The commissioner may impose and collect course evaluation fees in an amount not to exceed five hundred dollars paid by the organization sponsoring the continuing education program for recognition that the program satisfies the commissioner's professional education guidelines.

(3) The commissioner may impose and collect course recognition fees in an amount not to exceed fifty dollars, paid by the person participating in a continuing education program which has not been recognized by the commissioner to determine if the course will satisfy the commissioner's guidelines governing required professional education.

D.(1) Beginning July 1, 2000, a nonresident applying for a license to conduct residential mortgage lending activities in the state shall demonstrate that he has completed the educational requirements established under the provisions of this Chapter or is entitled to certification by reciprocity. When the commissioner, in consultation with the board, determines that a nonresident's state has requirements equivalent to or higher than the educational requirements provided for in this Chapter for insuring the qualifications of those engaging in the residential mortgage lending business, the commissioner may issue licenses to such nonresident applicants who have completed the professional education requirements applicable to Louisiana licensees or who have satisfied equivalent professional educational requirements in such other state or jurisdiction.

(2) The nonresident's application for educational certification by reciprocity shall be submitted as part of the nonresident's application for licensure. The nonresident's certification by reciprocity may be renewed in the same manner as provided for other renewals or by demonstrating to the commissioner that he has satisfied comparable requirements in the state or jurisdiction of his domicile.

(3) The commissioner may impose and collect reciprocity analysis fees in an amount not to exceed two hundred dollars paid by the nonresident seeking determination by the commissioner whether the nonresident's state's certification and continuing education requirements are equivalent to or higher than those imposed by the commissioner or whether additional continuing education courses will be required.

E. Beginning in the year 2001, any person receiving certification by reciprocity or examination on July first or later shall not be required to have the ten hours of continuing professional education required for license renewal until December thirty-first of the following year.

F. No person shall hold himself out as being or advertise as a certified mortgage broker, mortgage lender, or originator unless such person has completed the educational requirements established in this Section.

G. Any person engaged in residential mortgage lending on or before August 15, 2003, pursuant to exemptions previously provided by R.S. 6:1087, may obtain a license without completing the professional education or

examination requirements in this Section, if they pay all applicable fees and submit completed applications on or before January 1, 2004. Any person applying for licensure pursuant to this Subsection shall comply with the financial responsibility, character, and fitness requirements contained in R.S. 6:1088.

PART III.

RESIDENTIAL MORTGAGE LOANS

§1095. Scope

A.(1) The provisions of this Part shall govern and control the rates, fees, charges, and disclosures applicable to residential mortgage loans.

(2) Repealed by Acts 2001, No. 617, § 3, eff. June 22, 2001.

B. All fees and charges authorized under this Part, whether or not such fees and charges constitute or are considered to be loan finance charges, shall be deemed to be material to the determination of the interest rate for purposes of exportation to borrowers residing in other states under the most favored lender doctrine of federal law.

C. As a general rule of construction, comparable rules, definitions, and principles under the Federal Real Estate Settlement Procedures Act and Regulation X of the office of the secretary of the Department of Housing and Urban Development, the Federal Truth in Lending Act, and Regulation Z of the Board of Governors of the Federal Reserve System may be looked to for guidance in further interpreting terms and concepts that are not otherwise defined or specified in the provisions of this Part. Fees and charges that are not classified as or considered as finance charges under the Federal Truth in Lending Act and Regulation Z are not considered to be loan finance charges for the purposes of this Part.

D. This Part shall not prohibit the imposition of fees and charges which are otherwise permissible under R.S. 6:548.

§1096. Residential mortgage loans

A. Any consumer who has contracted for a federally related mortgage loan may agree to pay fees and interest in excess of the maximum amounts authorized by the laws of this state and as such shall be prohibited from asserting a claim or defense of usury or of the taking of interest in excess of the maximum rate of conventional interest.

Any person signing as a co-maker, guarantor, or endorser for such consumer shall also be prohibited from asserting any such claim or defense.

B. The parties to a residential mortgage loan, other than a federally related mortgage loan, may agree to the payment of broker and other fees and interest in connection with a closed-end credit transaction, or finance charges calculated as a monthly periodic rate over the course of a year in connection with an open-end credit transaction otherwise subject to the Louisiana Consumer Credit Law, but made contractually subject to the provisions of this Chapter, as those terms are defined in federal Regulation Z, 12 CFR Section 226.1 et seq., up to an annual percentage rate as computed pursuant to 12 CFR Section 226.22 for closed-end credit and 12 CFR Section 226.14 (c) for open-end credit in an amount not to exceed the greater of either twenty-one percent or fifteen percentage points above the Federal Reserve Board of Governors approved "Discount Rate" published semi-annually in the Wall Street Journal on the first business day in January and July in the year the loan was originated, consummated, or renewed.

C. Unless otherwise provided by federal law, variable rate, or adjustable rate mortgage loans shall be governed by the provisions of R.S. 9:3504(D).

D. The general prohibition against interest upon accrued interest shall not apply to residential mortgage loans governed by this Part.

E.(1) In the absence of federal law or rules and regulations of federal agencies, a consumer may prepay in full the unpaid balance of his residential mortgage loan at any time.

(2) A mortgage lender may contract for and receive a prepayment penalty in an amount not to exceed:

(a) Five percent of the unpaid principal balance if the loan is prepaid in full during the first year of its term.

(b) Four percent of the unpaid principal balance if the loan is prepaid in full during the second year of its term.

(c) Three percent of the unpaid principal balance if the loan is prepaid in full during the third year of its term.

(d) Two percent of the unpaid principal balance if the loan is prepaid in full during the fourth year of its term.

(e) One percent of the unpaid principal balance if the loan is prepaid in full during the fifth year of its term.

(3) Notwithstanding any other provision of law to the contrary, no prepayment penalty or similar fee or charge shall be due, assessed, charged, collected, paid, held in escrow, or contracted to be paid if all or part of a prepayment of all or part of an outstanding loan balance is made from proceeds paid in full or partial satisfaction of a claim or claims made under a policy or policies of insurance, insuring against casualty, flood, or other loss or damage to property securing the loan being prepaid in connection with a gubernatorially declared disaster.

F. Agreements to compensate mortgage brokers through yield spread premiums for goods, facilities, and services actually provided in connection with a residential loan transaction shall be valid and enforceable.

G.(1) No mortgage broker shall assess, contract for, or receive any type of fee, interest, or other charge in advance, except for expense deposits from a potential borrower for the procurement of a loan. An advance expense deposit shall not exceed the good faith estimate of the actual cost of any appraisal, title search, credit reports performed by an independent person and required by the originating lender for the evaluation of the potential borrower's loan application, or the actual cost of any charge of no more than twenty-five dollars assessed to a mortgage broker by Fannie Mae for "Desktop Underwriter" or Freddie Mac for "Loan Prospector". Any portion of an advance expense deposit which exceeds the actual cost of any appraisal, title search, credit reports, or charge assessed to a mortgage broker by Fannie Mae for "Desktop Underwriter" or Freddie Mac for "Loan Prospector" shall be refunded to the borrower or credited to the borrower's account at the time of the closing of the loan.

(2) No mortgage lender shall assess, contract for, or receive any advance expense deposit for third party settlement services in advance that exceeds the good faith estimate of the actual cost of the settlement service. Any portion of an advance expense deposit which exceeds the actual cost of a third party settlement service shall be refunded to the borrower or credited to the borrower's account at the time of the closing of the loan.

(3) No mortgage lender shall finance or include in the loan amount of a residential mortgage loan the amount of any single premium credit life, dismemberment, health and accident, mortgage life and disability, involuntary unemployment, collateral protection, or debt cancellation insurance sold in connection with a residential mortgage loan transaction. Nothing in this Paragraph shall prohibit a lender from the financing of private mortgage insurance paid on a single premium basis in connection with a residential mortgage loan transaction.

H.(1) A residential mortgage lender shall provide the consumer, within five days of the date a written request is received from the consumer, with the amount necessary to prepay the account in full, and if the amount disclosed includes an amount which is required to be refunded, the amount of such refund.

(2) A consumer shall be entitled to receive one such disclosure of information statement each year without charge. Thereafter, the extender of credit may impose a reasonable fee to cover the cost of providing an additional disclosure statement; however, the charge imposed must be disclosed to the consumer before furnishing such disclosure statement.

I. (1) The person acting as originator in a residential loan transaction shall sign the original application.

(2) An originator may only originate residential mortgage loans for one employer.

§1097. Residential mortgage loan fees and charges

A. Notwithstanding any other law to the contrary, including but not limited to R.S. 9:3500, in addition to those fees, charges, costs, and expenses not considered interest or defined as finance charges under federal Regulation Z, the parties to a federally related mortgage loan may agree to the payment of any fees, charges, costs, and expenses, and the amounts thereof, including but not limited to the types of fees, charges, costs, and expenses listed in Subsection B of this Section, if the fees, charges, costs, and expenses, and the amounts thereof, or the methods for fixing such, are provided in a writing signed by the consumer.

B. The parties to a consumer loan, secured by a mortgage on residential immovable property, which is made contractually subject to the provisions of this Chapter, may agree to pay the following fees, charges, costs, and expenses:

(1) Charges for the prepayment of the loan or any installment or part of the loan prior to the time fixed for payment.

(2) Charges, in the amount of five percent of the unpaid amount, assessed for nonpayment of the loan or any installment or part of the loan after the loan or installment of principal or interest has become delinquent and is not timely paid.

(3) Costs of collection and reasonable attorney fees not in excess of twenty-five percent of the unpaid debt after default, when the debt has been referred to an attorney for collection.

(4) Fees, taxes, charges, and other expenses incurred in making the loan which are collected from or paid by or on behalf of the borrower, if such fees, taxes, charges, or other expenses are actually paid to or payable to persons other than the lender or the person making the loan or any employee of such lender or person.

(5) Charges or premiums for credit life insurance actually written on the life of the borrower or endorser in an amount not to exceed the total sum payable under the residential mortgage loan, including all interest, fees, costs, and charges.

(6) N.S.F. check charges in an amount not to exceed the greater of five percent of the amount of the check or twenty-five dollars.

(7) Other fees, charges, costs, and expenses not defined as finance charges under federal Regulation Z, if the fees, charges, costs, and expenses, or the methods for fixing such, are provided in a writing signed by the consumer.

§1098. Residential mortgage loan brokerage contracts

A. Each residential mortgage loan brokerage contract shall be in writing and signed by all contracting parties. The mortgage broker shall retain a signed copy of the residential mortgage loan brokerage contract in the customer's file.

B. The mortgage broker must provide the prospective borrower with a written "Mortgage Loan Origination Agreement" no later than three days after the initial loan application date. The written agreement shall describe the nature of the mortgage broker's relationship with the borrower and the manner in which the mortgage broker is compensated for his services. Such disclosures may be incorporated into the brokerage contract or provided in a separate document.

C. The written disclosures provided to the borrower shall also contain the following information as applicable:

(1) The name, address, and telephone number of the originator.

(2) The name, address, and telephone number of the residential mortgage lender by whom the originator is supervised.

(3) The name, address, and telephone number of the residential mortgage lender by whom the originator is employed.

D. Failure of the mortgage broker to provide the disclosures required by this Section shall not invalidate any residential mortgage loan entered into by a consumer through the efforts of the mortgage broker, but shall subject the mortgage broker to a refund of any brokerage fees obtained in connection with such residential mortgage loan.

§1099. Criminal penalties

A. In addition to the authority to report egregious violations as provided in R.S. 6:1092(E), the commissioner may report the violations of the following provisions to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided for herein.

B. It shall be a misdemeanor for a mortgage broker or lender to knowingly collect advance fees in excess of those provided for in R.S. 6:1096(G) , and upon conviction he may be sentenced to pay a fine not less than five hundred dollars and not more than one thousand dollars, or to imprisonment not exceeding one year, or both.

C. Any person who knowingly provides false or misleading information to the commissioner on an application and such information is material to approval of the application is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not less than five hundred dollars and not more than one thousand dollars, or to imprisonment not exceeding one year, or both.

D. Any licensee or exempt registrant who fails to account for or deliver to any person any money, funds, deposits, checks, drafts, mortgages, or other documents, or things of value to the borrower in violation of the provisions of this Chapter is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not less than five hundred dollars and not more than one thousand dollars, or to imprisonment not exceeding one year, or both.

E. Any licensee who fails to disburse, without just cause, any funds belonging to the borrower is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not less than five hundred dollars and not more than one thousand dollars, or to imprisonment not exceeding one year, or both.

F. A lender, broker, or originator who knowingly operates without a license or exempt registration is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not less than five hundred dollars and not more than one thousand dollars, or to imprisonment not exceeding one year, or both.

Notice

Please note that the official version of the Louisiana Revised Statutes is maintained by the State of Louisiana on the Louisiana Legislature's website located at www.legis.louisiana.gov The excerpted version of these statutes contained herein are unofficial and should not be relied on when making legal determinations affecting a person's rights or obligations without first consulting with competent legal counsel.